

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the *Southeastern*

District of *Texas*

Civil Division

United States Courts
Southern District of Texas
FILED

SEP 11 2020

David J. Bradley, Clerk of Court

Case No.

1615561 / 1615562

(to be filled in by the Clerk's Office)

Charles McCray

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Dr. B. Howard

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Charles McCray

All other names by which
you have been known:

Charles Laston

ID Number

01154346

Current Institution

Harris County Jail

Address

1200 Baker Street

Houston

Texas

77002

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Ed Gonzalez

Job or Title (*if known*)

Head Sheriff of Harris County Jail

Shield Number

N/A

Employer

Harris County Sheriff Office

Address

1200 Baker Street

Houston

Texas

77002

City

State

Zip Code

☒ Individual capacity☐ Official capacity**Defendant No. 2**

Name

Dr. Laxman Sunders

Job or Title (*if known*)

Director and Head of Medical

Shield Number

N/A

Employer

Harris County Medical Staff

Address

1200 Baker Street

Houston

Texas

77002

City

State

Zip Code

☒ Individual capacity☐ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

R. Hill, LUN
 Supervisor of Medical and Grievance
 N/A
 1200 Baker Street Harris County Medical Staff
 Harris County Jail 1200 Baker Street
 Houston Texas 77002
City State Zip Code

☒ Individual capacity☐ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

Dr. B. Howard
 Care Provider
 N/A
 Harris County Jail Medical Staff
 1200 Baker Street
 Houston Texas 77002
City State Zip Code

☒ Individual capacity☐ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

I am being deprived of medical treatment which violate my rights

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain)

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

1200 Baker Harris County Jail medical ON 12-20-18, the staff told me that nothing they could do for HEP C- AND THAT I WOULD HAVE TO UNTIL I GO TO THE JAIL TO GET THE TREATMENT FOR HEPATITIS DRUG SINCE I WAS, AFTER BEING EXAMINED BY DR. BHOWARD ON 8-27-20, NOW SHE'S TELLING ME MY LIVER IS ACTING AT 40 TO 43 WHICH IS NOT GOOD. DR. B. HOWARD TOLD ME THE LAST TIME I SAW HER ON 8-27-20 THERE WAS NOTHING THEY COULD DO

C. What date and approximate time did the events giving rise to your claim(s) occur?

D. *My Care Provider Dr. B. Howard also told me my liver was acting up when the first examined me over a year ago and that she was going to send me on a medical outside trip but it never happen for me with this virus I could die here with no treatment*
 What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?) *I have been denied medical attention since I've been here by Dr. Lakman Sanders, Dr. B. Howard and Head Sheriff Ed Gonzalez, And supervisor R. Hill, I have wrote the sheriff answer back know I have wrote the other medical staff members as well about getting me Hep C treatment but have been always denied the only thing that should be important in these times of this coronavirus is a human life but to these staff members are saying just let every body with Hepatitis C just let them die even do we have a cure which is very unconstitutional*
The wrong this Harris County Medical staff is doing to me.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. *I have been trying to get the treatment drug for Hepatitis C drug since I was examined when I arrived here at Harris County Jail back on 12-20-18, and I was denied any medical treatment for Hepatitis C and that's why you bring this Federal law suit on Harris County Jail medical system this is callously keep denying thousands of inmates access to a costly Hepatitis C medicine that's widely considered the standard care potentially exposing them to liver damage and other health complications people die from liver cancer which doctors suggested is a result of Hepatitis C medical care, to inmates "but instead their violating sick as inmates rationing medicine that will cure a disease" This is about basic human rights, because when you go to Harris County are prison, you don't give up your rights to medical care so I am examined and delivered is acting up and is damage I will be since the doctors have stated after examining me that my liver is acting up Dr. B. Howard, and also Dr. Lakman Sanders and also supervisor R. Hill, Ed Gonzalez, Dr. B. Howard, my care provider for over a year, stated the same every time, she have examined me so IF I live I am seeking monetary damages from all parties.*

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. *I am seeking in relief that the court order the Head of Harris County Medical staff Dr. Lakman Sanders, And Ed Gonzalez, to have me sent to the outside medical where this drug treatment is being given to people and cure Hepatitis C as soon as possible I am seeking from each defendant that's name and court deem liable for the damages the disease Hepatitis C has caused to my liver with this staff providing know medical treatment are attention for in the hold while I've been in Harris County Jail the sad part is there is a cure for Hepatitis C And Harris County will not provide it so I am seeking from each party \$1,000,000, in both of their capacity for damages that my liver is suffering with this coronavirus killing of millions of people I another human being life this Jail hold over 10,000 inmates at capacity level And this type of receiving know treatment when they have a cure then my question to the court is who is going to stop this medical staff are will people just keep not receiving medical treatment are will this staff of Harris County medical just keep letting people die off.*

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Harris County Jail 1200 Baker Street Houston TX 77002,

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

1200 Baker Harris County Jail Houston Texas 77002

2. What did you claim in your grievance?

That I need the treatment for Hepatitis C
 3. What was the result, if any? after Having blood work did now they're
 Telling me Dr B. Howard, over a year ago AND ON 8-27-20, I was examined
 by Dr. B. Howard, again and she told me my liver was acting up but when I filed the
 Grievance procedure ON 10-2-19, I received from medical supervisor R. Hill, LUN
 THAT I DID NOT HAVE Hepatitis C THAT IT'S UNFOUNDED BUT IT'S ALL OF KNOW INVESTIGATION
 by them because it's all over my medical records so I am still in
 great fear for my life with this medical staff.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

The same supervisor gave me the grievance receipt
 I appealed the grievance ON 11-1-19 AND again

ON 7-28-20, I received from supervisor R. Hill a grievance receipt
 stating ON IT UNFOUNDED again.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

ON The Date OF 11-6-19,

I also Received a Grievance Receipt From supervisor leaving stating unfounded
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☐ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

N/A

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition

N/A

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

8-31-20

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Charles McCray
 Charles McCray
 #0154346
 1200 Baker Harris County Jail
 Houston City Texas 77002
 City State Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address